

# ELECTRONIC CODE OF FEDERAL REGULATIONS

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Title 50 → Chapter III → Part 300 → Subpart A

Title 50: Wildlife and Fisheries  
PART 300—INTERNATIONAL FISHERIES REGULATIONS

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## Subpart A—General

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### Contents

- §300.1 Purpose and scope.
  - §300.2 Definitions.
  - §300.3 Relation to other laws.
  - §300.4 General prohibitions.
  - §300.5 Facilitation of enforcement.
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AUTHORITY: 16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*

[⤴ Back to Top](#)

### §300.1 Purpose and scope.

The purpose of this part is to implement the fishery conservation and management measures provided for in the international treaties, conventions, or agreements specified in each subpart, as well as certain provisions of the Lacey Act Amendments of 1981. The regulations in this part apply, except where otherwise specified in this part, to all persons and all places subject to the jurisdiction of the United States under the acts implemented under each subpart.

[⤴ Back to Top](#)

### §300.2 Definitions.

In addition to the definitions in each act, agreement, convention, or treaty specified in subparts B through K of this part, the terms used in this part have the following meanings:

*Assistant Administrator* means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, or a designee. Address: Room 14555, 1315 East-West Highway, Silver Spring, MD 20910.

*Authorized officer* means:

(1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard; or any U.S. Coast Guard personnel accompanying and acting under the direction of a commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) Any special agent or fisheries enforcement officer of NMFS; or

(3) Any person designated by the head of any Federal or state agency that has entered into an agreement with the Secretary of Commerce or the Commandant of the U.S. Coast Guard to enforce the provisions of any statute administered by the Secretary.

*CCAMLR inspector* means a person designated by a member of the Commission for the Conservation of Antarctic Marine Living Resources as an inspector under Article XXIV of the Convention on the Conservation of Antarctic Marine Living Resources to verify compliance with measures in effect under the Convention.

*Exclusive Economic Zone* or *EEZ* means the zone established by Presidential Proclamation 5030, dated March 10, 1983, as defined in 16 U.S.C. 1802(6).

*Fishing or to fish* means:

- (1) The catching or taking of fish;
- (2) The attempted catching or taking of fish;
- (3) Any other activity that can reasonably be expected to result in the catching or taking of fish; or
- (4) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (1) through (3) of this definition.

*Fishing vessel* means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type normally used for fishing.

*IATTC* means the Inter-American Tropical Tuna Commission, established pursuant to the Convention for the Establishment of an Inter-American Tropical Tuna Commission.

*Import* means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction, constitutes an importation within the meaning of the customs laws of the United States.

*IRCS* means International Radio Call Sign.

*Magnuson-Stevens Act* means the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

*National of the United States* or *U.S. national* means any person subject to the jurisdiction of the United States, including, but not limited to, a citizen or resident of the United States, or a person employed on a vessel of the United States. In the case of a corporation, partnership or other non- natural person, this includes, but is not limited to, any entity that is the owner of a vessel of the United States.

*NMFS* means the National Marine Fisheries Service, NOAA, Department of Commerce.

*NMFS Headquarters* means NMFS, 1315 East-West Highway, Silver Spring, MD 20910. *Attention:* Office of International Affairs.

*Official number* means the documentation number issued by the USCG or the certificate number issued by a state or the USCG for an undocumented vessel, or any equivalent number if the vessel is registered in a foreign nation.

*Operator* means, with respect to any vessel, the master or other individual aboard and in charge of that vessel.

*Owner* means, with respect to any vessel:

- (1) Any person who owns that vessel in whole or part (whether or not the vessel is leased or chartered);
- (2) Any charterer of the vessel, whether bareboat, time, or voyage;
- (3) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or
- (4) Any agent designated as such by a person described in this definition.

*Person* means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized, or existing under the laws of any state), and any Federal, state, local, or foreign government or any entity of any such government.

*Regional Administrator* means the Administrator of one of the six NMFS Regions, described in Table 1 of §600.502 of this title, or a designee.

*Science and Research Director* means the Director of one of the six NMFS Fisheries Science Centers described in Table 1 of §600.502 of this title, or a designee, also known as the Science Director.

*Secretary* means the Secretary of Commerce or a designee.

*USCG* means the United States Coast Guard.

*Yellowfin tuna* means any fish of the species *Thunnus albacares* (synonymy: *Neothunnus macropterus*).

[61 FR 35550, July 5, 1996, as amended at 76 FR 59305, Sept. 26, 2011]

[⤴ Back to Top](#)

### **§300.3 Relation to other laws.**

Other laws that may apply to fishing activities addressed herein are set forth in §600.705 of chapter VI of this title.

[⤴ Back to Top](#)

### **§300.4 General prohibitions.**

It is unlawful for any person subject to the jurisdiction of the United States to:

- (a) Violate the conditions or restrictions of a permit issued under this part.
- (b) Fail to submit information, fail to submit information in a timely manner, or submit false or inaccurate information, with respect to any information required to be submitted, reported, communicated, or recorded pursuant to this part.
- (c) Make any false statement, oral or written, to an authorized officer concerning the catching, taking, harvesting, possession, landing, purchase, sale, or transfer of fish, or concerning any other matter subject to investigation by that officer under this part.
- (d) Conceal any material fact (including by omission), concerning any matter subject to investigation by an authorized officer under this part.
- (e) Refuse to allow an authorized officer to inspect any report or record required to be made or kept under this part.
- (f) Falsify, cover, or otherwise obscure, the name, home port, official number (if any), or any other similar marking or identification of any fishing vessel subject to this part such that the vessel cannot be readily identified from an enforcement vessel or aircraft.
- (g) Fail to comply immediately with any of the enforcement and boarding procedures specified in this part.
- (h) Refuse to allow an authorized officer to board a fishing vessel, or enter any other area of custody (i.e., any vessel, building, vehicle, live car, pound, pier, or dock facility where fish might be found) subject to such person's control, for the purpose of conducting any inspection, search, seizure, investigation, or arrest in connection with the enforcement of this part or any other applicable law.
- (i) Destroy, stave, or dispose of in any manner, any fish, gear, cargo, or other matter, upon any communication or signal from an authorized officer of the United States, or upon the approach of such an officer, enforcement vessel, or aircraft, before the officer has had the opportunity to inspect same, or in contravention of directions from such an officer.
- (j) Intentionally destroy evidence that could be used to determine if a violation of this part has occurred.
- (k) Assault, resist, oppose, impede, intimidate, threaten, obstruct, delay, prevent, or interfere, in any manner, with an authorized officer in the conduct of any boarding, inspection, search, seizure, investigation, or arrest in connection with enforcement of this part.
- (l) Resist a lawful arrest or detention for any act prohibited by this part.
- (m) Interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this part.
- (n) Interfere with, obstruct, delay, or prevent, by any means, an investigation, search, seizure, or disposition of seized property in connection with enforcement of this part.
- (o) Ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this part.
- (p) Violate any provision of any statute implemented by this part.
- (q) Attempt to do any of the foregoing.

[⤴ Back to Top](#)

### **§300.5 Facilitation of enforcement.**

(a) *Compliance.* The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer or CCAMLR inspector to stop the vessel, and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing this part.

(1) For the purposes of this section "freeboard" means the working distance between the top rail of the gunwale of a vessel and the water's surface. Where cut-outs are provided in the bulwarks for the purpose of boarding personnel, freeboard means the distance between the threshold of the bulwark cut-out and the water's surface.

(2) For the purposes of this section, "pilot ladder" means a flexible ladder constructed and approved to meet the U.S. Coast Guard standards for pilot ladders at 46 CFR subpart 163.003 entitled Pilot Ladder.

(b) *Communications.* (1) Upon being approached by a USCG vessel or aircraft, or other vessel or aircraft with an authorized officer or CCAMLR inspector aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) VHF-FM radiotelephone is the preferred method of communicating between vessels. If the size of the vessel and the wind, sea, and visibility conditions allow, a loudhailer may be used instead of the radio. Hand signals, placards, high frequency radiotelephone, voice, flags, whistle or horn may be employed by an authorized officer or CCAMLR inspector, and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. USCG units will normally use the flashing light signal "L" which, in the International Code of Signals, means "you should stop your vessel instantly."

(4) Failure of a vessel's operator promptly to stop the vessel when directed to do so by an authorized officer or CCAMLR inspector, or by an enforcement vessel or aircraft, using loudhailer, radiotelephone, flashing light, flags, whistle, horn or other means constitutes prima facie evidence of the offense of refusal to allow an authorized officer or CCAMLR inspector to board.

(5) A person aboard a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel immediately.

(c) *Boarding.* The operator of a vessel directed to stop must:

(1) Monitor Channel 16, VHF-FM, if so equipped.

(2) Stop immediately and lay to or, if appropriate and/or directed to do so by the authorized officer or CCAMLR inspector, maneuver in such a way as to allow the safe boarding of the vessel by the authorized officer or CCAMLR inspector and the boarding party.

(3) Except for fishing vessels with a freeboard of 4 feet (1.25 m) or less, provide, when requested by an authorized officer or CCAMLR inspector, a pilot ladder capable of being used for the purpose of enabling the authorized officer or CCAMLR inspector to embark and disembark the vessel safely. The pilot ladder must be maintained in good condition and kept clean.

(4) When necessary to facilitate the boarding or when requested by an authorized officer or CCAMLR inspector, provide a manrope or safety line, and illumination for the pilot ladder.

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer or CCAMLR inspector and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.- .-) is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (.-. --- -. -.---) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear that may be in the water.

(3) "SQ3" (... --- ...---) means "you should stop or heave to; I am going to board you."



[61 FR 35550, July 5, 1996, as amended at 73 FR 67809, Nov. 17, 2008]

[⬆ Back to Top](#)

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# ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of January 14, 2016

Title 50 → Chapter III → Part 300 → Subpart Q

Title 50: Wildlife and Fisheries

PART 300—INTERNATIONAL FISHERIES REGULATIONS

## Subpart Q—High Seas Fisheries

### Contents

- §300.330 Purpose.
- §300.331 Definitions.
- §300.332 Issuing offices.
- §300.333 Vessel permits.
- §300.334 Fisheries authorized on the high seas.
- §300.335 Bottom fishing.
- §300.336 Vessel identification.
- §300.337 Requirements for Enhanced Mobile Transceiver Units (EMTUs).
- §300.338 Observers.
- §300.339 Transshipment on the high seas.
- §300.340 Prohibitions.
- §300.341 Reporting.

AUTHORITY: 16 U.S.C. 5501 *et seq.*

SOURCE: 80 FR 62495, Oct. 16, 2015, unless otherwise noted.

[↑ Back to Top](#)

### §300.330 Purpose.

This subpart implements the High Seas Fishing Compliance Act of 1995 (Act), which requires the Secretary to license U.S. vessels fishing on the high seas and to ensure that such vessels do not operate in contravention of international conservation and management measures recognized by the United States.

[↑ Back to Top](#)

### §300.331 Definitions.

In addition to the terms defined in section 300.2 and those in the Act and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993 (Agreement), the terms used in this subpart have the following meanings. If a term is defined differently in section 300.2, the Act, or the Agreement, the definition in this section shall apply.

*Bottom fishing* means fishing using gear that is likely to contact the seafloor during the normal course of fishing operations.

*Enhanced mobile transceiver unit (EMTU)* is defined in 50 CFR 600.1500.

*High seas* means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any Nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

*High seas fishing permit* means a permit issued under this subpart.

*High seas fishing vessel* means any vessel of the United States used or intended for use on the high seas for the

purpose of the commercial exploitation of living marine resources and as a harvesting vessel, mothership, or any other support vessel directly engaged in a fishing operation. Support vessels include vessels that process or transship fish on the high seas; provide supplies, personnel or fuel on the high seas to other fishing vessels; or conduct other activities in support of, or in preparation for fishing.

*International conservation and management measures* means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

*Observer* means any person serving in the capacity of an observer employed by NMFS, either directly or under contract with a third party, or certified as an observer by NMFS.

*Office Director* means the director of the NMFS Office for International Affairs and Seafood Inspection.

*Regional Administrator* means any one of the Directors of a NMFS regional office, defined under §300.2.

*Transship or transshipment* means offloading or receiving or otherwise transferring fish or fish products from one fishing vessel to another. Excluded from this definition is net sharing, which means the transfer of fish that have not yet been loaded on board any fishing vessel from the purse seine net of one vessel to another fishing vessel. Fish shall be considered to be on board a fishing vessel once they are on a deck or in a hold, or once they are first lifted out of the water by the vessel.

*Vessel monitoring system (VMS)* is defined in 50 CFR 600.1500.

⤴ Back to Top

### §300.332 Issuing offices.

Any Regional Administrator or the Office Director may issue permits required under this subpart. While applicants for permits may submit an application to any Regional Administrator or the Office Director, applicants are encouraged to submit their applications (with envelopes marked "Attn: HSFCA Permits") to the Regional Administrator or the Office Director with whom they normally interact on fisheries matters.

⤴ Back to Top

### §300.333 Vessel permits.

(a) *Eligibility.* (1) Any vessel owner or operator of a high seas fishing vessel is eligible to receive a permit for a fishery authorized on the high seas under this subpart, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and—

(i) The foreign nation suspended such authorization, because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(ii) The foreign nation, within the 3 years preceding application for a permit under this section, withdrew such authorization, because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restrictions in paragraphs (a)(1)(i) and (ii) of this section do not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Regional Administrator or Office Director demonstrating that the owner and operator at the time the vessel undermined the effectiveness of such measures have no further legal, beneficial, or financial interest in, or control of, the vessel.

(3) The restrictions in paragraphs (a)(1)(i) and (ii) of this section do not apply if it is determined by the Regional Administrator or Office Director that issuing a permit would not subvert the purposes of the Agreement.

(b) *Applicability.* Any high seas fishing vessel used for fishing, as defined under §300.2, on the high seas must have on board a valid permit issued under this subpart.

(c) *Application.* Permit application forms are available from the NMFS Web site or from any Regional Administrator or the Office Director. Failure to submit a complete and accurate application, along with all other required documentation and the specified fee will preclude issuance of a permit. To apply for a permit under this subpart, the owner or operator of a high seas fishing vessel must submit the following to a Regional Administrator or Office Director:

(1) A complete, accurate application form signed by the vessel owner or operator.

(2) Information required under this section and §300.334(a).

(3) A color photograph showing an entire bow-to-stern side-view of the vessel in its current form and appearance. The photograph must clearly and legibly display the vessel name and identification markings. If the vessel's form or appearance materially changes (such as the vessel is painted another color, the vessel's identification markings change, or the vessel undergoes a structural modification) the vessel owner and operator must submit a new photograph of the vessel within 15 days of the change.

(4) For vessels with state registration instead of U.S. Coast Guard documentation, the applicant must supply additional vessel information that NMFS may request.

(5) The fee specified in the application form. Payment by a commercial instrument later determined to be insufficiently funded will invalidate any permit. NMFS charges this fee to recover the administrative expenses of permit issuance, and the amount of the fee is determined in accordance with the procedures of the NOAA Finance Handbook.

(d) *Permit issuance and validity.* (1) Except as provided for in subpart D of 15 CFR part 904, and subject to paragraphs (a), (c), and (d)(2) and (3) of this section, the Regional Administrator or Office Director will issue a permit, which will include applicable conditions or restrictions, within 15 days of receipt of a completed application and payment of the appropriate fee.

(2) The Regional Administrator or Office Director will not issue a permit unless an EMTU has been installed and activated on the vessel in accordance with §300.337(c)(2).

(3) The Regional Administrator or Office Director will not issue a permit unless the applicant holds a valid permit for the subject vessel for any U.S. domestic fisheries related to the authorized high seas fishery.

(4) Except as otherwise provided, permits issued under this subpart are valid for 5 years from the date of issuance. For a permit to remain valid to its expiration date, the vessel's U.S. Coast Guard documentation or state registration must be kept current. A permit issued under this subpart is void when the vessel owner or the name of the vessel changes, or in the event the vessel is no longer eligible for U.S. documentation, such documentation is revoked or denied, or the vessel is removed from such documentation.

(5) A permit issued under this subpart is not transferable or assignable to another vessel or owner; it is valid only for the vessel and owner to which it is issued.

(e) *Display.* A valid permit, or a copy thereof, issued under this subpart must be on board any high seas fishing vessel while operating on the high seas and available for inspection by an authorized officer.

(f) *Change in application information.* Any changes in vessel documentation status or other permit application information must be reported in writing to the Regional Administrator or Office Director who issued the permit within 15 days of such changes.

(g) *Renewal.* Application for renewal of a permit prior to its expiration is the responsibility of the permit holder and may be completed per §300.333(c). The Regional Administrator or Office Director will not consider a permit renewal application to be complete until the permit holder satisfies all required fishing activity report requirements under the permit and §300.341. The Regional Administrator or Office Director will not issue a renewed permit unless an EMTU has been activated on the vessel in accordance with §300.337(c)(2) and the applicant holds a valid permit for the subject vessel for any U.S. domestic fisheries related to the authorized high seas fishery.

(h) *Marine mammals and ESA-listed species.* Permits issued under this section do not authorize vessels or persons subject to the jurisdiction of the United States to take marine mammals or ESA-listed species. No marine mammals or ESA-listed species may be taken in the course of fishing operations unless the taking is allowed under the Marine Mammal Protection Act or the Endangered Species Act (ESA), pursuant to regulations, an authorization, or permit granted by NMFS or the U.S. Fish and Wildlife Service.

(i) *Permit Status Changes.* NMFS may modify, suspend, or revoke a permit issued under this subpart if permitted activities may impact living marine resources in ways that were not considered at the time of permit issuance; are in contravention of an international conservation and management measure; or violate any applicable law. NMFS will notify an affected permit holder of any potential change in permit status by contacting the permit holder at the address of record provided on the permit application or as updated pursuant to paragraph (f) of this subsection and will provide an opportunity to respond, consistent with the Administrative Procedure Act and other applicable law.

[↑ Back to Top](#)

**§300.334 Fisheries authorized on the high seas.**

(a) *General.* When applying for a permit under §300.333, the owner or operator of a high seas fishing vessel must identify in the application the authorized fisheries in which he or she intends to fish. More than one authorized fishery may be selected. The following fisheries are authorized on the high seas:

- (1) 50 CFR part 300, subpart C—Eastern Pacific Tuna Fisheries.
- (2) 50 CFR part 300, subpart D—South Pacific Tuna Fisheries.
- (3) 50 CFR part 300, subpart G—Antarctic Marine Living Resources.
- (4) 50 CFR part 635—Atlantic Highly Migratory Species Fisheries.
- (5) 50 CFR part 660, subpart K—U.S. West Coast Fisheries for Highly Migratory Species.
- (6) 50 CFR part 665, subpart F—Western Pacific Pelagic Fisheries.
- (7) South Pacific Albacore Troll Fishery.
- (8) Northwest Atlantic Fishery.

(b) *Requirements for authorized fisheries.* For each of the authorized fisheries specified on the high seas fishing permit, the owner or operator of the high seas fishing vessel must:

- (1) Abide by the regulations, set forth in other parts of this chapter and Chapter VI, governing those authorized fisheries while operating on the high seas;
- (2) Obtain and renew any appropriate permits or authorizations; and
- (3) Notify the Regional Administrator or Office Director who issued the permit immediately in the event that a species listed as threatened or endangered under the ESA is taken incidental to the fishing activities without authorization under a relevant incidental take statement.

(c) *Change in authorized fisheries.* If a high seas fishing permit holder elects to change the authorized fisheries specified on the permit, he or she shall notify the Regional Administrator or Office Director who issued the permit of the change(s) and shall obtain the underlying permits for the authorized fisheries prior to engaging in the fishery on the high seas. Per the process under §300.333(d), the Regional Administrator or Office Director will then issue a revised high seas fishing permit which will expire 5 years from the original effective date.

(d) *Revision of authorized fisheries list.* Through rulemaking, NMFS will add a fishery to, or delete a fishery from, the list in paragraph (a) of this section. NMFS may add or delete fisheries from the list after completing any analyses required under the Endangered Species Act, Marine Mammal Protection Act, National Environmental Policy Act, and other applicable laws. In taking such action, NMFS, in consultation with the relevant Regional Fishery Management Council(s) where appropriate, will consider, among other things, whether:

- (1) The proposed fishing activities would detrimentally affect the well-being of the stock of any regulated species of fish, marine mammal, or species listed as threatened or endangered under the Endangered Species Act;
- (2) The proposed fishing activities would be inconsistent with relevant fishery management plans and their implementing regulations or other applicable law;
- (3) Insufficient mechanisms exist to effectively monitor the activities of vessels engaged in the proposed fishing activities; or
- (4) The proposed fishing activities would contravene international conservation and management measures recognized by the United States.

(e) *Request for revision of authorized fisheries list.* A person may submit a written request to the Office Director to add a fishery to or delete a fishery from the list. A request to delete a fishery from the list of authorized fisheries must include the name of the fishery; information that addresses considerations under paragraph (d) of this section; and, if requested by NMFS, any additional information necessary for NMFS to conduct analyses required under applicable laws. A request to add a fishery to the list of authorized fisheries must include the following information:

- (1) The species (target and incidental) expected to be harvested and the anticipated amounts of such harvest and bycatch;



(2) The approximate times and places when fishing is expected to take place, the number and type of vessels expected to participate, and the type, size, and amount of gear expected to be used;

(3) A description of the specific area that may be affected by the fishing activities;

(4) A description of any anticipated impacts on the environment, including impacts on fisheries, marine mammals, and species listed as threatened or endangered under the ESA or their critical habitat;

(5) Other information that addresses considerations under paragraph (d) of this section; and

(6) If requested by NMFS, any additional information necessary for NMFS to conduct analyses required under applicable laws.

(7) Once all required information is received to proceed with consideration of a request, NMFS will publish in the FEDERAL REGISTER a proposed rule, noting receipt of the request to add an authorized fishery, and inviting information and comments. Relevant information received during the comment period may be considered by NMFS and, where appropriate, the relevant Regional Fishery Management Council(s), in analyzing potential environmental impacts of the fisheries and developing any conditions or restrictions. Based on its analysis, considerations under paragraph (d) of this section, and other relevant considerations, NMFS will publish its decision on the request in the FEDERAL REGISTER.

(f) *Deletion of a fishery from the authorized fisheries list.* NMFS will delete (i.e., deauthorize) a fishery under paragraph (d) or (e) of this section through publication of a final rule. NMFS will also provide notice to affected permit holders by email and by Registered Mail at the addresses provided to NMFS in the high seas permit application. When a fishery is deleted from the list, any activities on the high seas related to that fishery are prohibited as of the effective date of the final rule. In addition, the high seas permit will be voided unless the permit holder notifies NMFS that he or she elects to change to another authorized high seas fishery or continue in any other authorized fisheries noted on the permit. Once the applicant so notifies NMFS and, if necessary, secures any underlying permits necessary for participation in another authorized high seas fishery, the Regional Administrator or Office Director will then issue a revised high seas fishing permit per the process under §300.333(d). The revised permit will expire 5 years from the original effective date.

⬆ Back to Top

### §300.335 Bottom fishing.

(a) Bottom fishing may be permitted on the high seas when authorized by international conservation and management measures recognized by the United States. For bottom fishing activity not subject to international conservation measures recognized by the United States, a person who seeks to engage in such fishing must request authorization of a new high seas fishery as described in §300.334(e) and then, if the fishery is authorized, must obtain all applicable permits including a high seas fishing permit issued under §300.333. NMFS may specify conditions and restrictions in the permit to mitigate adverse impacts on VMEs, which may include the types of conditions that have been adopted in relevant RFMO measures recognized by the United States.

(b) *Permit.* To be permitted under this section, the owner or operator of a high seas fishing vessel must follow the procedures under §300.334(e) or, if he or she seeks to change an existing permit, must follow the procedures under §300.334(c).

⬆ Back to Top

### §300.336 Vessel identification.

(a) *General.* A vessel permitted under this subpart must be marked for identification purposes in accordance with this section.

(b) *Marking.* Vessels must be marked either:

(1) In accordance with vessel identification requirements specified in Federal fishery regulations issued under the Magnuson-Stevens Act or under other Federal fishery management statutes; or

(2) In accordance with the following identification requirements:

(i) A vessel must be marked with its international radio call sign (IRCS) or, if not assigned an IRCS, must be marked (in order of priority) with its Federal, state, or other documentation number appearing on its high seas fishing permit and, if a WCPFC Area Endorsement has been issued for the vessel under §300.212, that documentation number must be preceded by the characters "USA" and a hyphen (that is, "USA-");

(ii) The markings must be displayed at all times on the vessel's side or superstructure, port and starboard, as well as on a deck;

(iii) The markings must be placed so that they do not extend below the waterline, are not obscured by fishing gear, whether stowed or in use, and are clear of flow from scuppers or overboard discharges that might damage or discolor the markings;

(iv) Block lettering and numbering must be used;

(v) The height of the letters and numbers must be in proportion to the size of the vessel as follows: for vessels 25 meters (m) and over in length overall, the height of letters and numbers must be no less than 1.0 m; for vessels 20 m but less than 25 m in length overall, the height of letters and numbers must be no less than 0.8 m; for vessels 15 m but less than 20 m in length overall, the height of letters and numbers must be no less than 0.6 m; for vessels 12 m but less than 15 m in length overall, the height of letters and numbers must be no less than 0.4 m; for vessels 5 m but less than 12 m in length overall, the height of letters and numbers must be no less than 0.3 m; and for vessels under 5 m in length overall, the height of letters and numbers must be no less than 0.1 m;

(vi) The height of the letters and numbers to be placed on decks must be no less than 0.3 m;

(vii) The length of the hyphen(s), if any, must be half the height (h) of the letters and numbers;

(viii) The width of the stroke for all letters, numbers, and hyphens must be  $h/6$ ;

(ix) The space between letters and/or numbers must not exceed  $h/4$  nor be less than  $h/6$ ;

(x) The space between adjacent letters having sloping sides must not exceed  $h/8$  nor be less than  $h/10$ ;

(xi) The marks must be white on a black background, or black on a white background;

(xii) The background must extend to provide a border around the mark of no less than  $h/6$ ; and

(xiii) The marks and the background must be maintained in good condition at all times.

[⬆ Back to Top](#)

### **§300.337 Requirements for Enhanced Mobile Transceiver Units (EMTUs).**

(a) *Vessel position information.* The owner or operator of a vessel issued a permit under this subpart, or for which such permit is required, must have installed on board the vessel a NMFS type-approved enhanced mobile transceiver unit (EMTU). The operator or owner of the vessel must ensure that the EMTU is operational and properly reporting positions to NMFS as required by this section, except when exempt under paragraph (d)(1) or (2) of this section. If the vessel is also subject to EMTU requirements in other parts of this title, the more restrictive requirements apply.

(b) *Contact information and business hours.* With respect to the requirements in this section, vessel owners and operators should consult with the divisional office of the NOAA Office of Law Enforcement (OLE) in, or nearest, the Region issuing the permit under this subpart. The OLE VMS Helpdesk in OLE headquarters office may also be contacted.

(c) *EMTU installation and activation—(1) EMTU installation.* The vessel owner or operator shall obtain and have installed on the fishing vessel, by a qualified marine electrician and in accordance with any instructions provided by the VMS Helpdesk or OLE divisional office, a NMFS type-approved EMTU. OLE is authorized to receive and relay transmissions from the EMTU. The vessel owner and operator shall arrange for a type-approved mobile communications service to receive and transmit position reports and email communications from the EMTU to OLE. NMFS makes available lists of type-approved EMTUs and mobile communications service providers. Vessel owners must ensure that the EMTU and communications service hardware purchased is type-approved for all fisheries and regions in which their vessel will be operating.

(2) *EMTU activation.* When an EMTU is installed or reinstalled or the mobile communications service provider changes, or if directed by OLE, the vessel owner and operator shall, prior to leaving port:

(i) Turn on the EMTU to make it operational;

(ii) Submit a VMS Installation and Activation Certification form, or an activation report as directed by OLE, to the OLE divisional office within or nearest to the region issuing the permit under this subpart; and

(iii) Receive confirmation from OLE that transmissions are being received properly from the EMTU.

(d) *EMTU operation.* Unless otherwise provided below, and subject to more restrictive requirements where applicable, the vessel owner or operator shall continuously operate the EMTU so that it automatically transmits position information to OLE, once every hour or as directed by OLE.

(1) In-port exemption: The EMTU may be powered down when the vessel will remain at a dock or permanent mooring for more than 72 consecutive hours and after the notice required in paragraph (d)(3) of this section is submitted to OLE. When powering up the EMTU after the in-port exemption, the vessel owner or operator must submit the report required in paragraph (d)(4) of this section at least 2 hours before leaving port or mooring.

(2) Long-term exemption: The EMTU may be powered down if the vessel will not operate on the high seas, or in any fishery that requires EMTU operation, for more than 30 consecutive days and after the notice required in paragraph (d)(3) of this section is submitted. When powering up the EMTU from the long-term exemption, the vessel owner or operator must submit the report required in paragraph (d)(4) of this section.

(3) Prior to each power-down of the EMTU, under paragraph (d)(1) or (2) of this section, the vessel owner or operator must report to the OLE divisional office in, or nearest, the Region issuing the permit under this subpart during business hours, via email or other means as directed by OLE: the vessel's name; the vessel's official number; the intent to power down the EMTU; the reason for power-down; the port where the vessel is docked or area where it will be operating; and the full name, telephone, and email contact information for the vessel owner or operator.

(4) When powering up the EMTU, the vessel owner or operator must report to the OLE divisional office in, or nearest, the Region issuing the permit under this subpart during business hours, via email or other means as directed by OLE: The fact that the EMTU has been powered up; the vessel's name; the vessel's official number; port name; intended fishery; and full name, telephone, and email contact information for the vessel owner or operator.

(5) If the EMTU is powered up after a long-term or in-port exemption, the vessel owner must receive confirmation from the OLE divisional office in, or nearest, the Region issuing the permit under this subpart that EMTU transmissions are being received properly before leaving port, entering the high seas, or entering a fishery that requires EMTU operation.

(e) *Failure of EMTU.* If the vessel owner or operator becomes aware that the EMTU has become inoperable or that transmission of automatic position reports from the EMTU has been interrupted, or if notified by OLE or the U.S. Coast Guard that automatic position reports are not being received from the EMTU or that an inspection of the EMTU has revealed a problem with the performance of the EMTU, the vessel owner or operator shall comply with the following requirements:

(1) If the vessel is in port, the vessel owner or operator shall repair or replace the EMTU and comply with the requirements in paragraph (c)(2) of this section before the vessel leaves port.

(2) If the vessel is at sea, the vessel owner, operator, or designee shall contact the OLE divisional office in, or nearest, the Region issuing the permit under this subpart by telephone or email at the earliest opportunity during business hours and identify the caller, vessel name, vessel location, and the type of fishing permit(s). The vessel operator shall follow the instructions provided by the OLE divisional office, which could include: Ceasing fishing, stowing fishing gear, returning to port, or submitting periodic position reports at specified intervals by other means. The vessel owner or operator must repair or replace the EMTU and comply with the requirements in paragraph (c)(2) of this section within 30 days or before the vessel leaves port, whichever is sooner.

(f) *Related VMS requirements.* Unless specified otherwise in the high seas fishing permit, a vessel owner's and operator's compliance with requirements in part 300, 635, 660, or 665 of this title relating to the installation, carrying, and operation of EMTUs will satisfy the requirements of this section, if the requirements are the same or more restrictive than those in this section and provided that:

(1) On the high seas, the EMTU is operated continuously and position information is automatically transmitted a minimum of once every hour;

(2) The EMTU is type-approved by NMFS;

(3) OLE is authorized to receive and relay transmissions from the EMTU; and

(4) The requirements of paragraph (d) of this section are complied with. If the EMTU is owned by NMFS, the requirement under paragraph (e) of this section to repair or replace the EMTU will be the responsibility of NMFS, but the vessel owner and operator shall be responsible for ensuring that the EMTU complies with the requirements specified in paragraph (c)(2) of this section before the vessel leaves port.

(g) *Costs.* The vessel owner and operator shall be responsible for all costs associated with the purchase, installation, operation, and maintenance of the EMTU and for all charges levied by vendors as necessary to ensure the transmission of

automatic position reports to OLE as required in paragraph (c) of this section. However, if the EMTU is being carried and operated in compliance with the requirements in part 300, 635, 660, or 665 of this title relating to the installation, carrying, and operation of EMTUs, the vessel owner and operator shall not be responsible for any costs that are the responsibility of NMFS under those regulations.

(h) *Tampering.* The vessel owner and operator shall ensure that the EMTU is not tampered with, disabled, destroyed, damaged or operated improperly, and that its operation is not impeded or interfered with.

(i) *Inspection.* The vessel owner and operator shall make the EMTU, including its antenna, connectors and antenna cable, available for inspection by authorized officers or by officers conducting boarding and inspection under a scheme adopted by an RFMO of which the United States is a member.

(j) *Access to data.* As required under fishery-specific regulations in other parts of this title, the vessel owner and operator shall make the vessel's position data, obtained from the EMTU or other means, available to authorized officers and to any inspector conducting a high seas boarding and inspection pursuant to a scheme adopted by an RFMO of which the United States is a member.

(k) *Communication devices.* In cases of EMTU failure as specified under paragraph (e) of this section, and to facilitate communication with management and enforcement authorities regarding the functioning of the EMTU and other purposes, the vessel operator shall, while the vessel is at sea, carry on board and continuously monitor a two-way communication device, in addition to the EMTU, that is capable of real-time communication with the OLE divisional office in, or nearest, the Region issuing the permit under this subpart.

[⬆ Back to Top](#)

### **§300.338 Observers.**

(a) Where observer coverage is not otherwise required by other regulations or relevant RFMO conservation and management measures, NMFS may select for at-sea observer coverage any vessel that has been issued a high seas fishing permit. A vessel so selected by NMFS must carry an observer when directed to do so.

(b) NMFS will contact a vessel owner, in writing, when his or her vessel is selected for observer coverage under this section.

(c) A vessel shall not fish on the high seas without taking an observer if NMFS contacted the vessel owner under paragraph (b) of this section, or if so required as a condition of a permit issued under this subpart or pursuant to other legal authorities, unless the requirement to carry an observer has been waived under paragraph (d) of this section.

(d) The vessel owner that NMFS contacts under paragraph (b) of this section must notify NMFS of his or her next fishing trip that may take place on the high seas before commencing the fishing trip. NMFS will specify the notification procedures and information requirements, such as expected gear deployment, trip duration and fishing area, in its selection letter. Once notified of a trip by the vessel owner, NMFS will assign an observer for that trip or notify the vessel owner that coverage pursuant to this subpart is not required, given the existing requirement for observer coverage under other legal authorities.

(e) The owner, operator, and crew of a vessel on which a NMFS-approved observer is assigned must comply with safety regulations at §§600.725 and 600.746 of this title and—

(1) Facilitate the safe embarkation and debarkation of the observer.

(2) Provide the observer with accommodations, food, and amenities that are equivalent of those provided to vessel officers.

(3) Allow the observer access to all areas of the vessel necessary to conduct observer duties.

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(5) Allow the observer access to EMTUs, communications equipment, and navigation equipment to verify operation, obtain data, and use the communication capabilities of the units for official purposes.

(6) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and disposition of fish for that trip.

(7) Provide accurate vessel locations by latitude and longitude upon request by the observer.



(8) Provide access to sea turtle, marine mammal, sea bird, or other specimens as requested by the observer.

(9) Notify the observer in a timely fashion when commercial fishing activity is to begin and end.

(f) The permit holder, vessel operator, and crew must cooperate with the observer in the performance of the observer's duties.

(g) The permit holder, vessel operator, and crew must comply with other terms and conditions to ensure the effective deployment and use of observers that the Regional Administrator or Office Director imposes by written notice.

[⬆ Back to Top](#)

### **§300.339 Transshipment on the high seas.**

(a) In addition to any other applicable restrictions on transshipment, including those under parts 300 and 635 of this title, the following requirements apply to transshipments, when authorized, taking place on the high seas:

(1) The owner or operator of a U.S. vessel receiving or offloading fish on the high seas shall provide a notice by fax or email to the Regional Administrator or the Office Director at least 36 hours prior to any intended transshipment on the high seas with the following information: the vessels offloading and receiving the transshipment (names, official numbers, and vessel types); the location (latitude and longitude to the nearest tenth of a degree) of transshipment; date and time that transshipment is expected to occur; and species, processed state, and quantities (in metric tons) expected to be transshipped. If another requirement for prior notice applies, the more restrictive requirement (*i.e.*, a requirement for greater advance notice and/or more specific information regarding vessels, location etc.) must be followed.

(2) U.S. high seas fishing vessels shall report transshipments on the high seas to the Regional Administrator or Office Director within 15 calendar days after the vessel first enters into port, using the form obtained from the Regional Administrator or Office Director. If there are applicable transshipment reporting requirements in other parts of this title, the more restrictive requirement (*e.g.*, a reporting requirement of fewer than 15 calendar days) must be followed.

(b) [Reserved]

[⬆ Back to Top](#)

### **§300.340 Prohibitions.**

In addition to the prohibitions in §300.4, it is unlawful for any person to:

(a) Use a high seas fishing vessel on the high seas in contravention of international conservation and management measures.

(b) Fish on the high seas unless the vessel has been issued, and has on board, a valid permit issued under §300.333(d).

(c) Fish on the high seas unless the vessel has been issued, and has on board, valid permits related to the authorized fisheries noted on the high seas fishing permit, as required under §300.334(b).

(d) Operate a high seas fishing vessel on the high seas that is not marked in accordance with §300.336.

(e) With respect to the EMTU,

(1) Fail to install, activate, or continuously operate a properly functioning and type-approved EMTU as required in §300.337;

(2) Power-down or power-up the EMTU without following the procedures required in §300.337;

(3) In the event of EMTU failure or interruption, fail to repair or replace an EMTU, fail to notify the appropriate OLE divisional office and follow the instructions provided, or otherwise fail to act as required in §300.337;

(4) Disable, destroy, damage or operate improperly an EMTU installed under §300.337, attempt to do any of the same, or fail to ensure that its operation is not impeded or interfered with, as provided in §300.337;

(5) Fail to make an EMTU installed under §300.337 or the position data obtained from it available for inspection, as provided in §300.337; or

(6) Fail to carry on board and monitor communication devices as required in §300.337(l);



(f) With respect to observers,

(1) Fail to provide to an observer, a NMFS employee, or a designated observer provider, information that has been requested pursuant to §300.338 or §600.746 of this title, or fail to allow an observer, a NMFS employee, or a designated observer provider to inspect any item described at §300.338 or §600.746 of this title;

(2) Fish without an observer when the vessel is required to carry an observer pursuant to §300.338(c);

(3) Assault, oppose, harass, impede, intimidate, or interfere with an observer;

(4) Prohibit or bar by command, impediment, threat, coercion, interference, or refusal of reasonable assistance, an observer from conducting his or her duties as an observer; or

(5) Tamper with or destroy samples or equipment.

(g) Fail to submit a prior notice or a report of a transshipment as provided in §300.339(b) of this title.

(h) Fail to comply with reporting requirements as provided in §300.341.

[↑ Back to Top](#)

### **§300.341 Reporting.**

(a) *General.* The operator of any vessel permitted under this subpart must accurately maintain on board the vessel a complete record of fishing activities, such as catch, effort, and other data and report high seas catch and effort information to NMFS in a manner consistent with the reporting requirements of the authorized fishery(ies) noted on the high seas permit. Reports must include: identification information for vessel and operator; operator signature; crew size; whether an observer is aboard; target species; gear used; dates, times, locations, and conditions under which fishing was conducted; species and amounts of fish retained and discarded; and details of any interactions with sea turtles, marine mammals, or birds.

(1) The vessel owner and operator are responsible for obtaining and completing the reporting forms from the Regional Administrator or Office Director who issued the permit holder's high seas fishing permit. The completed forms must be submitted to the same Regional Administrator or Office Director or, if directed by NMFS, to a Science Center.

(2) Reports must be submitted within the deadline provided for in the authorized fishery or within 15 days following the end of a fishing trip, whichever is sooner. Contact information for the Regional Administrators and Science Center Directors can be found on the NMFS Web site.

(b) [Reserved]

[↑ Back to Top](#)

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